

**Section 4****CONTENTS**

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**INVESTIGATION OF COMPLAINTS****D4.00**

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**Purpose**

To establish uniform criteria for conducting complaint investigations.

**Responsibility**

The investigator is responsible for determining if the claim is subject to the provisions of the Act and conduct an investigation to determine compliance with Act 166. Administrative support is responsible for sending the self audit and compliance/non-compliance letter. The manager is responsible to review recommendations.

**Policy**

1. The department shall conduct an investigation initiated by a written complaint.
2. Complaint investigations shall be conducted on a first in/first out basis.
3. The department shall establish jurisdiction prior to initiating contact with a contractor.
4. The contracting agent, prime contractor if known, and the project manager if known, shall be notified that a complaint has been filed with the department.
5. Time and payroll records of the contractor for the project construction dates, identified on the complaint, shall be inspected by the department to determine compliance or non-compliance. A sample audit of one pay period for each classification identified in the complaint shall be prepared to demonstrate compliance/non-compliance. If available, any time and payroll record(s) provided by complainant(s) will also be reviewed.
6. If non-compliance is determined, the investigator shall advise the contractor and complainant of the violation and forthcoming self audit letter. A letter shall be sent requesting the contractor conduct a self audit for the claim period and reimburse underpayments determined by the self audit. **The self-audit shall be certified by either a certified public accountant of the employer's choosing, or certified by the personal signature of the employer, attesting to the self-audit's authenticity and completeness with the following language prior to the signature: "I hereby certify that this self-audit is complete and correct as to its findings."**
7. When a complaint alleges a violation of the posting requirement on an ongoing project, the department shall request the (sub) contractor certify compliance. If the (sub) contractor fails to certify compliance with the posting requirements, an on-site inspection shall be made to determine compliance/non-compliance (See application 5).

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**INVESTIGATION OF COMPLAINTS****D4.00**

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8. When the contracting agent fails to:

- a. advertise and offer invitation to bid for a state project,
- b. have the commissioner determine rates for all classifications called for on the project,
- c. provide rates, or
- d. include a requirement and/or other evidence to pay rates as part of the specifications of a contract.

The contracting agent is in violation of the Act.

The contractor is not in violation of the Act because, the project was not advertised or let out for bid, or rates, or the requirement and/or other evidence to pay rates were not included in the contract.

9. A complainant shall not be referred to the prosecuting attorney.

**Exception,** a complainant who is a contracting agent shall be referred to the prosecuting attorney to pursue action on their own behalf (see section D3.03 policy 5).

10. The complainant, third party or other representative (filing on behalf of), contracting agent, contractor, project manager and prime contractor shall be notified of the results of the sample audit investigation (see violation and the request for compliance section D4.04).

**Application 1 – Establishing Jurisdiction**

1. Administrative support pulls the project file (if project information previously received) or makes a new one and assigns the complaint to an investigator.
2. The investigator determines if the complaint is complete and sends or requests administrative support send coverage/jurisdiction letter to contracting agent requesting:
  - documentation regarding the source of funding;
  - copy of advertisement for bid;
  - project specification;
  - any addendums, which include the project description;
  - the requirement to pay the prevailing wage rate;
  - the prevailing wage rate schedule;
  - the date the contract was awarded or construction began.
3. If the contracting agent does not respond to the letter within 14 working days, a second letter can be sent or phone contact made with the contracting agent.
4. If the contracting agent does not respond to the second attempt, a field contact will be made to obtain information requested in the coverage/jurisdiction letter.

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5. The investigator reviews information received from contracting agent and completes the jurisdiction checklist, indicating:
- Investigator
  - Claim number
  - Complainant (individual or third party)
  - Third party or representative (filing on behalf of)
  - Contractor
  - Date coverage/jurisdiction letter sent and dates of additional contacts made to contracting agent
  - Name of file project information is retained in
  - Is there a copy of advertisement/invitation to bid?
  - Identify source of funding (i.e., state qualified bonds, direct appropriation, capital outlay)
  - Does contract specification contain a project description?
  - Does contract specification include the requirement and/or other evidence (i.e., inclusion of the prevailing wage rate schedule in contract) to pay the prevailing wage rate?
  - Does contract specification include prevailing wage rates? Determine the date the rate schedule was issued
  - Identify the dates the project was awarded or construction began.
  - Was the complainant sent the questionnaire form?
  - Contracting agent name, contact person and address
  - Project manager name and address, if applicable
  - Print contractor name and address, if applicable
  - Third party or representative (filing on behalf of) name and address, if applicable
  - Project description and Period claimed
  - Occupation and Nature of complaint
  - Make recommendation:
    - “open, send notification letter, refer for assignment”
    - To close, submit jurisdiction checklist with a closing summary to include: “close, send closure letter (#)” (see appendix F).

**Application 2 – Documenting Compliance or non-compliance**

Document compliance or noncompliance by conducting a sample audit for one pay period for each classification indicated in the complaint.

In the case of an ongoing project the prevailing rates are required to be posted on the construction site (Policy 2 Section D3.02 and Policy 7 Section D4.00).

**Application 3 – Individual Complaint**

A plumber working on a school project files a prevailing wage complaint indicating that the posted rate for plumbers on the job was not paid. After jurisdiction has been established, a review of the payroll records of the contractor finds compliance in one week, and non-compliance in one week, during the period claimed by the complainant. A sample audit is completed for one week that shows non-compliance. The investigator advises the contractor, complainant, and the third party or representative (filing on behalf of), if applicable, of the violation and forthcoming self audit letter. The investigator submits a closing summary with the recommendation that the sample audit letter be mailed.

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The contractor is sent a letter requesting the contractor complete an audit for the entire period the plumber worked on the project and submit any underpayment found due. The payment may be paid by check or money order payable to the construction mechanic or department, or may be paid directly to the employee. The contractor should be advised to notify this office of direct payment to the employee.

If the contractor completes an audit and submits payment to the plumber, the contractor will be considered in violation of the Act but resolution was successful.

If the contractor does not complete an audit, the contractor will be considered in violation.

**Application 4 – Third Party Complaint**

A Carpenters Union filed a third party complaint against a contractor alleging that laborers were performing job duties consistent with the carpenter classification and were not paid the proper prevailing wage rate. A review of the records showed one mechanic was paid the prevailing wage rate as a laborer, the second mechanic was paid as carpenter, and the third was paid both the laborer rate and the carpenter rate based on the number of hours worked in each classification. The contractor/subcontractor provided a job description identifying the duties performed by each audited mechanic. The job descriptions were consistent with classifications paid. No violation was found. A sample audit was conducted for one mechanic for one pay period.

**Application 5 – Posting Requirement Complaint**

1. If the (sub) contractor does not respond to the notification letter within 14 working days, the investigator requests the (sub) contractor complete the certification of posting form. This request must be documented through personal visit, telephone call, or letter.
2. If the (sub) contractor fails to complete and return the certification of posting form within 14 working days, an on-site inspection on the construction site will be made. If the prevailing wage and fringe benefit rates are posted in a conspicuous place at the construction site a determination of compliance will be made regardless of who posted the copy.
3. If the rates are not posted, the investigator shall recommend the department contact the prosecuting attorney to seek enforcement of sections 5 and 7 of Act 166 (section 3.03).

**CLASSIFICATION DISPUTES****D4.01****Purpose**

To establish uniform criteria for investigating complaints regarding classification disputes on covered state projects within the authority of the statute.

**Responsibility**

The investigator is responsible for determining whether a complaint involves a classification dispute and taking appropriate action.

**Policy**

1. The division shall determine that the rate of pay is consistent with the work actually performed.
2. The division will not pursue disputes alleging:
  - a. an incorrect classification for classifications with similar scopes of work.
  - b. jurisdictional disputes between *similar* trade classifications.
  - c. worker ratios: apprentice to journeyman, helper or assistant ratios on state projects.

**Application 1 - classification dispute**

- A. The following is an example of misclassification that the division will investigate:

A construction mechanic installs roofing materials on the project site and is paid the general laborer's rate. An investigation is appropriate since the construction mechanic was paid the General Laborer prevailing rate for the skilled work (roofer) performed.

- B. The following is an example of a classification dispute that the division will not pursue:

A contracting agent requests a determination on whether a contractor can install conduit in relation to a teledata system using the teledata classification, or does the electrical code require a permit and installation of the metallic and non-metallic conduit by an electrician under the inside wireman's classification.

Since the determination of which classification is appropriate would depend on what the electrical code requires, the question should be directed to the entity which regulates the electrical code and not Wage & Hour.

- C. The following is an example of similar scopes of work:

A construction mechanic works as a laborer and performs both cement finisher tender and mason tender duties on a project (i.e. setup scaffolding, cleaning tools, loading/unloading material), the cement finisher and mason tender duties are described as laborers duties as well. The construction mechanic is paid the laborers rate.

A determination will be made that the appropriate rate was paid.

**CLASSIFICATION DISPUTES****D4.01****Application 2 - classification verification**

The division shall verify whether a construction mechanic is paid within the appropriate rate classification by utilizing available information for the classification. The prevailing practice of the industry determines how work is classified - work performed by the employee, not the worker's title or qualifications determines the classification.

There are resources within and outside the division that can be used to establish whether a construction mechanic performed within a specific classification.

1. Collective bargaining agreement work descriptions.
2. Bureau of Construction Codes can be contacted.
3. Trade representatives can be contacted by phone at the union locals of the various trades.
4. Dictionary of Occupational Titles, Standard Industrial Classification Manual . The North American Industry Classification System (NAICS) has replaced the U.S. Standard Industrial Classification (SIC) system.
5. Contractors should be contacted.
6. U.S. Department of Labor area offices of the Bureau of Apprenticeship and Training:\*\*

Detroit 313/226-6206  
Lansing (state office) 517/377-1746, e-mail: bivins.glenn@dol.gov

\*\*Phone numbers are subject to change.

**Application 3 – (policy 1) Third Party Complaint**

A sprinkler fitter union filed a third party complaint against a contractor alleging that landscape laborers were performing job duties consistent with the sprinkler fitter classification and therefore were not being paid the proper prevailing wage rate. A review of the records showed all mechanics were paid the landscape laborers rate. The contractor/subcontractor provided a job description identifying the duties performed by each audited mechanic. The job descriptions were NOT consistent with classifications paid. The job duties were consistent with the sprinkler fitter classification. The contractor/subcontractor is in violation of the Act. A sample audit was conducted for one mechanic for one pay period to demonstrate non-compliance.

**Application 4 – Third Party Complaint**

A carpenters union filed a third party complaint against a contractor alleging that three laborers were performing job duties consistent with the carpenter classification and were not paid the proper prevailing wage rate. A review of the records showed one mechanic was paid the prevailing wage rate as a laborer, the second mechanic was paid as carpenter, and the third was paid both the laborer rate and the carpenter rate based on the number of hours worked in each classification. The contractor/subcontractor provided a job description identifying the duties performed by each audited mechanic. The job descriptions were consistent with classifications paid. No violation was found. A sample audit was conducted for one mechanic for one pay period to demonstrate compliance.

**DETERMINING IF PREVAILING RATE HAS BEEN PAID****D4.02****Purpose**

To establish criteria for determining whether the prevailing rate has been paid.

**Responsibility**

The investigator is responsible for inspecting records to determine compliance with the prevailing rate requirement for work performed by a construction mechanic on a covered state project.

**Policy**

1. The division shall allow the contractor a credit for wages paid to a construction mechanic for work performed on a state project.
2. Fringe benefit means; vacation pay, holiday pay, health and welfare contributions, medical insurance, pension or retirement contributions, a bonus, profit sharing distribution, life insurance, contractor/subcontractors contributions to an employee's annuity fund, or tax deferred savings plan, education or training fund contributions, scholarship contributions, or other bona fide fringe benefits.
3. The division shall allow the contractor a credit for fringe benefits paid to, or earned by, construction mechanics for work performed on a state project.
4. Fringe benefits paid on an hourly basis shall be credited at the same hourly rate.
5. The division shall allow the contractor a fringe benefit credit for:
  - a. A fringe benefit paid directly to a construction mechanic
  - b. A fringe benefit contribution or payment made on behalf of a construction mechanic
  - c. A fringe benefit, which may be provided to a construction mechanic, pursuant to a written contract or policy. **Contributions made to a fringe benefit plan for prevailing wage work may not be used to subsidize the plan for periods of non-prevailing wage work. Therefore, unless the employer's rate of contribution for a fringe benefit is the same for all work, prevailing wage and non-prevailing wage, the following shall apply:**
    - i. **Credit shall be based on an effective annual rate, based on 2,080 hours per year. For example, if the employer contributes \$5.00 per hour into a fund for 1,040 hours on prevailing wage jobs, but does NOT contribute to this fund for hours worked on non-prevailing wage jobs, the employer is entitled to a credit of \$2.50 per hour as follows:  $1040 \text{ hours} \times \$5.00 / 2080 \text{ hours} = \$2.50 \text{ per hour}$ .**
    - ii. **IF the employer contributes at a rate of \$5.00 per hour for 1,040 hours on prevailing wage work, and \$1.00 per hour for 520 hours on non-prevailing wage work, the employer is entitled to a credit of \$2.75 per hour as follows:  $(1040 \text{ hours} \times \$5.00 \text{ per hour}) + (520 \text{ hours} \times \$1.00 \text{ per hour}) = \$2.75 \text{ per hour (over 2,080 hours)}$ .**
6. The division shall calculate an hourly credit based on 2080 hours per year (52 weeks x 40 hours per week) for the actual contribution or cost attributed to an employee for a fringe benefit not paid on an hourly rate basis, (e.g. medical coverage, life insurance) to determine credit for work on a project. **Reference: Application 2 & 3.**

**DETERMINING IF PREVAILING RATE HAS BEEN PAID****D4.02**

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7. The department will exercise discretion in converting the formula or method of payment of a fringe benefit to an hourly rate, based on 2080 hours per year (52 weeks x 40 hours per week) in cases where an individual cost or contribution is not available and the fringe benefit contribution or cost is expressed in a formula or method of payment other than an hourly rate.
8. Fringe benefit contributions paid to an individual instead of a fund may be credited to the prevailing rate.
9. Monies provided by contractors to construction mechanics for items such as clothing, uniforms, gas, travel time, meals or lodging, or per diem shall be considered reimbursable expenses and shall not be credited to the payment of the prevailing rate. Payments on behalf of a construction mechanic that are not wage or fringe benefits, e.g. industry advancement funds, shall not be credited. **Payments into a trust for wages, to be paid at the end of a project, will not be credited or allowed.**
10. Legally required payments and contributions such as unemployment taxes, Workers' Compensation Agency and Contractor/subcontractor's social security contributions shall not be credited to the payment of the prevailing rate.
11. A contractor/subcontractor shall pay overtime and premium pay to its workers as required in the prevailing rate schedule. **Reference: Application 1A.**
12. A weighted average may be used to compute the overtime due when a construction mechanic works at two or more classifications on a covered project, during an overtime period. **Application 1B.**
13. Only those hours worked on the covered project shall be considered for computing straight time, overtime or premium pay when a construction mechanic works on a covered project and a non-covered project in the same pay period. **Application 1C.**
14. There shall be no combining of project and non-project hours to calculate premium pay and overtime pay. **Application 1C.**
15. An apprentice shall be paid pursuant to the prevailing rate established for the classification and apprentice level.

**DETERMINING IF PREVAILING RATE HAS BEEN PAID****D4.02****Application 1 - Regarding premium pay****A. PREVAILING RATE SCHEDULE, POLICY 11**

The overtime pay schedule is included with the prevailing rate schedule and indicates the payment required for hours worked over 40 in a workweek, hours worked over a daily standard (e.g. 9, 10), at one and a half time ( $1\frac{1}{2}$ ) or double time.

**B. WEIGHTED AVERAGE, POLICY 12**

In cases where an employee works at 2 or more different rates/classifications on the same project in a +40 hour workweek, the Contractor/subcontractor can voluntarily pay the  $1\frac{1}{2}$  the highest rate or use a weighted average computed by adding all earnings at straight time, dividing by the hours worked to obtain a weighted average rate. Overtime hours must be paid at the applicable regular plus  $\frac{1}{2}$  the weighted average. For example - overtime on 35 hours @ \$15.15 and 10 hours @ 16.00 is computed as follows:

$$\begin{array}{r} 35 @ 15.15 = \$530.25 \\ 10 @ 16.00 = \underline{\$160.00} \\ \$690.25 \end{array}$$

\$690.25 divided by 45 = \$15.34 weighted average

$$\$15.34 \times .5 = \$7.67 \times 5 \text{ hours} = \$38.35$$

The employee is due  $\$530.25 + \$160.00 + \$38.35 = \$728.60$

**C. COVERED AND NON-COVERED OVERTIME/PREMIUM HOURS, POLICY 13**

A complaint is received concerning non-payment of premium pay from a master plumber for time worked on a state project. A review of the time records for the period claimed showed the mechanic had worked at two locations during the period claimed. One location was at Central Michigan University, a covered project as defined by the Act. The other was at Embers Restaurant, a non-covered project.

pp end 10-18-98	12th	13th	14th	15th	16th	17th	18th	
Central Mich.	6	10	0	2	8	0	0	26
Embers Rest.	6	1	8	8	0	0	0	23
	12	11	8	10	8	0	0	49

The investigator reviews the rate schedule supplied with the file and determines the overtime/premium pay schedule requires  $1\frac{1}{2}$  times the straight hourly rate for hours in excess of 8 in a day, as well as  $1\frac{1}{2}$  times the straight hourly rate for hours worked over 40 in a week. The prevailing wage audit for this pay period showed the mechanic was due  $1\frac{1}{2}$  times the straight hourly rate for only the 2 hours worked over 8 on 10-13-98 (Policy 11). Any remaining overtime would not be subject to Act 166 of 1965 as only those hours worked on the project are counted.

## Prevailing Wage on State Projects

**DETERMINING IF PREVAILING RATE HAS BEEN PAID****D4.02****Application 2, policies 5 & 6**

Example: A construction mechanic has been employed for six months at a regular rate of \$14.00/hour. The written policy expressly requires that 80 hours of vacation/personal time be paid after one year of seniority.

The investigator will compute the credit in the following manner:

$$80 \text{ hours} \times \$14.00/\text{hour} = \$1120.00$$

$$\$1120.00/2080 \text{ hours} = \$ .54/\text{hour to be credited}$$

**Application 3, calculating fringe benefit credits**

A. The construction mechanic earns \$1.00 per hour for vacation paid = \$1.00 per hour fringe benefit credit.

B. Employee fringe benefits are as follows:

Vacation	40 hours X \$14.00	\$560.00
Dental insurance	monthly premium	\$31.07
Vision insurance.	monthly premium	\$5.38
Blue Cross	monthly premium	\$230.00
Life insurance	monthly premium	\$27.04
Training/tuition	annual	\$500.00
Year End Bonus	\$250 per quarter	\$1,000.00
401k Employer contribution	annual	\$2,000.00

Calculated fringe benefit credit:

Vacation	40 hours X \$14.00 = 560/2080 =	\$ .27
Dental insurance	\$31.07 X 12 months = \$372.84/2080 =	\$ .18
Vision insurance	\$5.38 X 12 months = \$64.56/2080 =	\$ .03
Blue Cross	\$230.00 X 12 months = \$2,760.00/2080 =	\$1.33
Life insurance	\$27.04 X 12 months = \$324.48/2080 =	\$ .16
Training/tuition	\$500.00/2080 =	\$ .24
Year End Bonus	4 x \$250 = \$1000.00/2080 =	\$ .48
401k Employer Contribution	\$2000.00/2080 =	\$ .96
Total credit		\$3.65

**Application 4, policy 7**

A review of the billing invoices from a company that provided training to employees of XYZ Company shows that \$15,000 was paid for training during a 12 month period. There are 20 employees of XYZ Company eligible for the training. The fringe credit would be calculated as follows; \$15,000 paid/20 employees = 750/2080 hours = \$.36 hourly credit.

**INVESTIGATING APPRENTICESHIP CLAIMS****D4.03****Purpose**

To establish uniform criteria for determining whether a construction mechanic is to be paid the prevailing rate as an apprentice.

**Responsibility**

The investigator is responsible for determining whether a construction mechanic is an apprentice and whether the correct prevailing rate is paid.

**Policy**

1. A construction mechanic shall only be paid the apprentice rate:
  - a) if registered with the U.S.D.O.L. Bureau of Apprenticeship and Training (BAT) and
  - b) for the period covered by the BAT certificate and
  - c) if apprentice rates are included on the prevailing wage rate schedule contained in the contract.
2. Journeyman to apprentice ratios shall not be considered in determining compliance with the Act.
3. A contractor shall be required to pay the journeyman rate to a construction mechanic who is not a registered apprentice.
4. The rate paid must be from the rate schedule for the work performed.

**Application 1 - Registered apprentice – rates in contract**

A construction mechanic is working on a project as a registered apprentice with the Bureau of Apprenticeship and Training (BAT) during the entire period of the project. A review of the records show:

- a. The apprenticeship rates are included in the prevailing wage rate schedule contained in the contract.
- b. The apprentice is in the sixth period of his term.
- c. The apprentice is paid the apprentice rate for the sixth period as indicated in the prevailing rate schedule.

The contractor is in compliance with the Act.

**INVESTIGATING APPRENTICESHIP CLAIMS****D4.03**

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**Application 2 –****A. Registered apprentice - no apprenticeship rates in contract**

A construction mechanic is working as a plumber on a project. The mechanic is a registered apprentice with BAT during the entire period of the project. The mechanic is paid a rate less than the journeyman rate. The contract does not include plumber apprenticeship rates.

The contractor is in violation for not paying the journeyman rate.

(See policy on investigation of complaints).

**B. Unregistered apprentice – no rates in contract**

A construction mechanic is working as a plumber on a project. The mechanic is not a registered apprentice with BAT. The mechanic is paid a rate less than the journeyman rate. The contract does not include plumber apprenticeship rates.

The contractor is in violation for not paying the correct prevailing rate.

**Application 3 – Period of registration**

A construction mechanic works as a carpenter on a state project from June 1 to December 31. The mechanic becomes a registered apprentice with BAT in September 1 of the same year. Apprenticeship rates can only be paid from September 1 forward (beginning with the date of registration). The mechanic must be paid the journeyman rate from June 1 to August 31.

**Application 4 - Unregistered apprentice - rates -in contract**

A construction mechanic works as a painter on a state project and is paid the apprenticeship painter rate as specified in the contract. The construction mechanic is not registered with BAT, and therefore, must be paid the journeyman painter rate.

The contractor is in violation of the Act.

**VIOLATION AND THE REQUEST FOR COMPLIANCE****D4.04****Purpose**

To establish uniform criteria for informing the contracting agent, contractor/subcontractor, prime contractor and project manager that a violation has been found and that compliance is requested.

**Responsibility**

The investigator assigned to the case is responsible for determining if the Act has been violated and, if so, advising the contractor and complainant of the violation and forthcoming self audit letter then recommending the notification and request for compliance letter be sent.

**Policy**

1. Contracting agents, contractors and subcontractors not in compliance with the provisions of the Act shall be sent a letter notifying them of a violation and requesting compliance.
2. The letter may contain:
  - the nature of the violation.
  - the nature of the corrective action to be taken:
    - provide required records, or
    - conduct self audit, and a request to submit payment due
    - a request for a listing of names, addresses and amounts being paid to each individual construction mechanic audited
    - a request to comply with the Act
  - the authority of the contracting agent as described under Section 6 of Public Act 166.
3. Contractors and subcontractors shall be given 14 working days to demonstrate compliance.
4. The violation notification and request for compliance letter shall be sent to the contracting agent, contractor and subcontractor and copied to the complainant, third party or representative (filing on behalf of), prime contractor and project manager when:
  - a. the contract specifications do not include :
    - a prevailing rate schedule for all classifications called for on the project,
    - a requirement and/or other evidence to pay rates, or
  - b. when the contracting agent fails to:
    - request the department determine rates for all classifications called for on the project, or
  - c. a review of payroll records reveals a payment less than the prevailing rate, or
  - d. the established prevailing rates are not posted, or
  - e. a contractor does not maintain the appropriate records, or provide records as required by Section 5 of Public Act 166.

**WITHDRAWAL OF COMPLAINTS****D4.05**

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**Purpose**

To establish procedures for withdrawal of a complaint.

**Responsibility**

The investigator is responsible for documenting the withdrawal of complaints. The administrative support staff is responsible for sending confirmation of withdrawal letters to all parties.

**Policy**

1. A signed statement may be submitted by the complainant to withdraw a complaint, or a verbal withdrawal will be considered valid if confirmed by a letter from the department which is not disputed by the complainant within 14 working days of the date mailed, and the file shall be closed as withdrawn. All parties shall be copied.
2. No further action shall be taken if the complaint is withdrawn.

**RESOLUTION OF COMPALINTS****D4.06**

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**Purpose**

To identify what resolves a complaint.

**Responsibility**

The division is responsible for encouraging contractor/subcontractors to comply with the prevailing wage law.

**Policy**

1. If a complainant withdraws a complaint at any time, prior to payment, the file shall be closed as withdrawn.
2. If a contractor/subcontractor pays an amount, which is accepted by the complainant prior to the preparation of a sample audit, the file shall be closed as paid. If the complainant does not accept payment see Section D4.00.
3. If the sample audit demonstrates a violation, the contractor and complainant shall be advised of the violation and the contractor sent a letter requesting a self-audit and payment.
  - If the contractor submits payment, a closing letter shall be sent to all parties notifying them that a violation was found, and a payment received.
  - If the contractor fails to submit payment, or if no response from the contractor is received; a closing letter shall be sent to the contracting agent advising them of the contractor's non-compliance.
4. The contracting agent shall be informed of the results of the investigation and advised of the right under Section 6 of Act 166 to terminate the contract if a violation is determined. All parties shall be copied with this letter.

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**COLLECTION OF MONEY****D4.07**

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**Purpose**

To establish uniform policy regarding the collection and distribution of money.

**Responsibility**

The investigator is responsible for the timely submission of any checks or money orders received in the field. Division staff is responsible for accounting and distribution of funds received in the office.

The department shall distribute and account for funds collected.

**Policy**

1. The division shall request the payment of money by check or money order made payable to the construction mechanic for the payment of prevailing wage complaints be made within 14 working days.
2. Direct payment to construction mechanics shall be permitted.
3. Payments, by check or money order, made payable to the State of Michigan received in the field by division representatives, must be mailed to the division on or before the next business day.
4. Payments, by check or money order, made payable to the construction mechanic, received in the field by division representatives, must be mailed to the division, or delivered to the construction mechanic, on or before the next business day.
5. Cash payments to the department or to a representative of the department are prohibited.
6. When payment is made in the presence of an investigator, the investigator shall document the payment in a report.
7. When a check is hand delivered to the construction mechanic, the investigator shall;
  - Identify the construction mechanic with a pictured ID, and
  - Have the construction mechanic acknowledge receipt of the check by signing the report that documents the delivery of the check to the construction mechanic.

**Application**

Checks made out to the department shall be immediately deposited in the Wage & Hour Division's account. A State of Michigan check shall be issued to the employee.

When payment is received within 14 days of a Self Audit Letter mailing date, the case file will be clearly marked as paid. When a Self Audit Letter is returned due to improper address or postage and then re-mailed, the later mailing date shall be used to calculate the 14-day voluntary compliance period. For example: If an audit letter was mailed on Monday, January 11, 14 days shall be allowed in addition to January 11, and payment would be due on Monday, January 28. However, if the audit letter was mailed on December 18, payment would be due on January 2, since 14 days are up on January 1 and January 1 is a legal holiday.